

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6651

WAYMARE BILLUPS,

Petitioner - Appellant,

versus

NORTH CAROLINA BOARD OF PAROLE COMMISSION,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CA-04-941-5)

Submitted: September 29, 2005

Decided: October 6, 2005

Before WILKINSON, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Waymare Billups, Appellant Pro Se. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Waymare Billups seeks to appeal the district court's order construing his 28 U.S.C. § 2254 (2000) petition as a 28 U.S.C. § 2241 (2000) petition. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Billups seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we deny a certificate of appealability and Billups' motion for immediate release and dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED